

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

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| In re: | : | Chapter 7 |
| US WOOD PRODUCTS, INC., | : | Case No. 00-03198 (MFW) |
| Debtor. | : | Adversary No. 03-53656 |
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| PANOLAM INDUSTRIES, INC., <i>et al.</i> | : | Civil Action No. 1:04-cv-01265 (SLR) |
| Appellants, | : | |
| v. | : | |
| MONTAGUE CLAYBROOK, | : | |
| CHAPTER 7 TRUSTEE, | : | |
| Appellee. | : | |

**ANSWER OF APPELLEE
CHAPTER 7 TRUSTEE, MONTAGUE CLAYBROOK
TO MOTION FOR REARGUMENT**

Montague S. Claybrook (the “Trustee”), the Chapter 7 Trustee for the estate of U.S. Wood Products, Inc. (the “Debtor”) by and through his undersigned counsel, hereby respectfully submits this answer to motion for reargument filed by Panolam Industries, Inc. (“Panolam”), and in support thereof, respectfully represents as follows:

1. On March 31, 2006, this Court issued an opinion and entered an order affirming the Bankruptcy Court’s order denying Panolam’s motion to dismiss a complaint for the recovery of a preferential transfer pursuant to 11 U.S.C. § 547 [Docket No. 15].
2. On April 10, 2006, Panolam filed a motion for reargument pursuant to D. Del. LR 7.1.5 [Docket No. 16]. Pursuant to Del. LR 7.1.5, the Trustee is permitted to answer the request for reargument.

3. Panolam provides that the basis for reargument and/or reconsideration¹ is the fact that Judge Kent Jordan issued an opinion in the case styled as Georgia-Pacific Corporation v. Burtch Misc. Nos. 03-157 and 03-158, in which Judge Kent reached the “opposite conclusion reached by this Court’s March 31, 2006 Order.”

4. The purpose of a motion for reconsideration is to correct manifest errors of law or fact or to present newly discovered evidence. Harsco Corp. v. Zlotnicki, 779 F.2d 906, 909 (3d Cir. 1985), cert. denied, 476 U.S. 1171 (1986) (citations omitted); see also North River Ins. Co. v. Cigna Reinsurance Co., 52 F.3d 1194, 1218 (3d Cir. 1995); Solow v. Ogletree, Deakins, Nash, Smoak & Stewart (In re Midway Airlines, Inc.), 180 B.R. 1009, 1012 (Bankr. N.D. Ill. 1995); In re Sharps Run Associates, L.P., 157 B.R. 766, 785 (D.N.J. 1993); In re James B. Downing & Co., 94 B.R. 515, 523 (Bankr. N.D. Ill. 1988); In re Crozier Bros., Inc., 60 B.R. 683, 687 (Bankr. S.D.N.Y. 1986). A motion for reconsideration is not meant to serve as a “vehicle to relitigate old matters or present the case under a new legal theory.” Midway Airlines, 180 B.R. at 1012 (citations omitted).

5. There is no basis for reconsideration and/or reargument simply because another district court judge issued what may be perceived as a conflicting decision. It would unreasonable and nonsensical for a court to reconsider its decisions each time a fellow judge issued a conflicting decision.

¹ Panolam moves for reargument under D. Del. LR 7.1.5, which does not set forth a standard of review. Panolam also notes grounds for “reconsideration.” Accordingly, the Trustee provides for the Court Fed. R. Bankr. P. 9023 and the standard for reconsideration under this rule. Fed. R. Bankr. P. 9023 makes Fed. R. Civ. P. 59 applicable to cases under the Bankruptcy Code. Pursuant to Rule 59(e), a party may seek to alter or amend a judgment, that is seek reconsideration of the entry of a judgment, by motion filed no later than ten (10) days after the entry of the judgment. Fed. R. Bankr. P. 9023; North River Ins. Co. v. Cigna Reinsurance Co., 52 F.3d 1194, 1218 (3d Cir. 1995); Harsco Corp. v. Zlotnicki, 779 F.2d 906, 909 (3d Cir. 1985), cert. denied, 476 U.S. 1171 (1986).

6. This Court's decision is supported by the facts and the law. There is no reason to conduct reargument or otherwise reconsider this Court's decision.

WHEREFORE, the Trustee respectfully requests that the Court deny Panolam's request for reargument pursuant to D. Del. LR 7.1.5.

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Dated: April 19, 2006